IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT : THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

CRL.A.No. 440 of 2000()

CC.217/1990 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

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APPELLANT: COMPLAINANT

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

RESPONDENTS: ACCUSED

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1. BALAKRISHNAN, S/O.P.SANKARA MENON
   PADARATHIL HOUSE, NALLEPILLY.

2. S.ARUMUGHAN
   S/O.SUBBAYYA GOUNDER
   ADVOCATE, SANTHI NILAYAM, CHITTUR.

3. C.A.APPUKUTTAN, S/O.ARUMUGHAN, KAITHAPARA CHALLA, NATTUKAL P.O.

4. K.MAYILSWAMY GOUNDER, S/O.KANTHASWAMY GOUNDER,
   VRINDAVAN KALAM, MEENAKSHIPURAM.

5. R.D.KRISHNASWAMY, S/O.THEVANNA GOUNDER,
   R.V.PUTHUR.

6. I.JOSEPH GURUSWAMY, S/O.SOURIYAR,
   KUZHIKAD, ERUTHEMPATHY.

7. S.AROGYASWAMY, S/O.SOURIYAR
   KUZHIKAD, ERUTHEMPATHY.

8. K.MOHIYUDEEN, S/O.ASSAINARKUTTY
   KALLIKKAL HOUSE, THALAKADATHUR, THIRUR TALUK.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.
SRI.A.KRISHNAN
SRI.H.BADARUDDIN
SMT.AYSHA RAHMAN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 20/06/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.440 of 2000

Dated this the 20th day of June, 2007

JUDGMENT

The appellant is the state and the order challenged is the one in C.C.217/90 with respect to the offence under Section 409, 467, 468, 477(A), 418, 120(B) read with Section 149 of IPC and Sections 28 and 29 of Kerala Co-operative Societies Act.

2. The accused A1, A2, A3 and A7 were acquitted. The case against A4, A5 and A6 abated during the pendency of the proceedings. A1 (R1) died thereafter. The case against him stands abated. The trial court acquitted the accused on the ground of inordinate delay on the basis of the decisions of the Supreme Court reported in AIR 1996 SC 2279 and AIR 1998 SC 2181. I find that the same is no longer good law in view of the larger bench decision of the Supreme Court in P.Ramchandra Rao vs. State of Karnataka (2002(1) KLT 581). The reason for the delay was only systemic in nature.

3. In the circumstances, the order of the court below set aside. The matter is remitted back to the court below which

shall permit the prosecution to further proceed with the matter. The parties shall appear before the court below on 24.7.2007.

The criminal appeal is allowed as above.

K.R.UDAYABHANU,
JUDGE

csl